

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS**

SKYLINE SOFTWARE SYSTEMS, INC.,

Plaintiff,

v.

KEYHOLE, INC., and
GOOGLE INC.

Defendants.

CIVIL ACTION NO. 06-10980 DPW

**DEFENDANTS KEYHOLE, INC.'S AND GOOGLE INC.'S MOTION FOR SUMMARY
JUDGMENT OF NONINFRINGEMENT**

Nelson G. Apjohn (BBO No. 020373)
NUTTER McCLENNEN & FISH LLP
World Trade Center West
155 Seaport Boulevard
Boston, MA 02210
(617) 439-2000
Fax: (617) 310-9000

Attorneys for Defendants and
Counterclaimants
KEYHOLE, INC. and GOOGLE INC.

Of Counsel

Darryl M. Woo, admitted *pro hac vice*
Michael J. Sacksteder, admitted *pro hac vice*
Heather N. Mewes, admitted *pro hac vice*
Carolyn Chang, admitted *pro hac vice*
Saundra L.M. Riley, admitted *pro hac vice*
FENWICK & WEST LLP

Embarcadero Center West
275 Battery Street
San Francisco, CA 94111
Tel. (415) 875-2300
Fax (415) 281-1350
email: dwoo@fenwick.com

Pursuant to Fed. R. Civ. P. 56, Local Rule 7.1, and Local Rule 56.1 Defendants Keyhole, Inc. and Google Inc. (“Google”) respectfully submit this Motion for Summary Judgment of Noninfringement. Google respectfully moves for an order granting summary judgment that the accused Google Earth products do not infringe U.S. Patent No. 6,496,189 (“the ’189 patent”), either literally or under the doctrine of equivalents.

As described in the supporting Memorandum of Points and Authorities in Support of Defendants’ Motion for Summary Judgment of Noninfringement, the accompanying Declaration of Carolyn Chang in Support of Defendants’ Motions for Summary Judgment (“Chang Decl.”) and all exhibits thereto, the Declaration of Professor Steven K. Feiner, Ph.D. in Support of Defendants’ Motions for Summary Judgment and all exhibits thereto, and the Separate Statement of Undisputed Facts in Support of Defendants’ Motions for Summary Judgment, there is no genuine dispute of material fact that none of the accused Google Earth products infringe any of the asserted claims of the ’189 patent. Furthermore, there is no genuine issue of material fact, and plaintiff Skyline Software Systems, Inc. (“Skyline”) is precluded from asserting infringement under the doctrine of equivalents.

WHEREFORE, Google requests that the Court grant this Motion and issue the Proposed Order attached hereto as Exhibit A.

REQUEST FOR HEARING

Pursuant to this Court's August 1, 2006 Scheduling Order, a hearing on this Motion for Summary Judgment of Noninfringement is scheduled for February 23, 2007 at 2:30 p.m.

Dated: January 19, 2007

Respectfully submitted,

By: _____/s/Darryl M. Woo

Darryl M. Woo
FENWICK & WEST LLP
Embarcadero Center West
275 Battery Street
San Francisco, CA 94111
Tel. (415) 875-2300
Fax (415) 281-1350
email: dwoo@fenwick.com

Attorneys for Defendants and
Counterclaimants
KEYHOLE, INC. and GOOGLE INC.

CERTIFICATE PURSUANT TO LOCAL RULE 7.1

Pursuant to Local Rule 7.1, counsel for Defendants' contacted counsel for Plaintiff regarding the filing of this Motion, and counsel were unable to resolve or narrow the issues raised by this Motion.

Dated: January 19, 2007

Respectfully submitted,

By: _____/s/Darryl M. Woo

Darryl M. Woo
FENWICK & WEST LLP
Embarcadero Center West
275 Battery Street
San Francisco, CA 94111
Tel. (415) 875-2300
Fax (415) 281-1350
email: dwoo@fenwick.com

Attorneys for Defendants and
Counterclaimants
KEYHOLE, INC. and GOOGLE INC.

Certificate of Service

I hereby certify that, on January 19, 2007, I caused a true and accurate copy of the foregoing document to be served upon all counsel of record for each party by complying with this Court's Administrative Procedures for Electronic Case Filing.

By: _____/s/Darryl M. Woo

Darryl M. Woo